

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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)	
UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
Winitsky Associates)	
)	
Defendant.)	
)	
)	

COMPLAINT

Plaintiff, the United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting;at the request of the United States Environmental Protection Agency (“EPA”), alleges as follows:

NATURE OF ACTION

1. This is a civil action brought pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), as amended, 42 U.S.C. § 9607 - 9675, for reimbursement of costs incurred by Plaintiff in response to the release or threatened release of hazardous substances from a facility located at the East Tenth Street Superfund Site (“Site”) in Marcus Hook, Delaware County, Pennsylvania which was or is owned and/or operated by Defendants.

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action and the parties hereto, pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607, and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to 42 U.S.C. § 9613(b) and 28 U.S.C. § 1391(b), because the releases or threatened releases of hazardous substances that gave rise to the claims in this action occurred in this district and because the Site is located in this district.

DEFENDANT

4. Defendant Winitsky Associates is a Pennsylvania limited partnership.

5. Defendant is a “person” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

GENERAL ALLEGATIONS

6. The Site encompasses approximately 40 acres in Marcus Hook, Delaware County, Pennsylvania. The Site is the location of a former viscose rayon / cellophane manufacturing facility. Beginning in 1990, EPA conducted investigations and sampling of releases and threatened releases of hazardous substances at the Site. EPA detected the presence of hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), at the Site, including asbestos, heavy metals, carbon disulfide and polychlorinated biphenyls (“PCBs”).

7. Defendant is a former owner or operator at the Site as defined in Section 101(20) of CERCLA, 42 U.S.C. § 9601(20). During the time of that Defendant operated at the Site, one or more of the hazardous substances listed in paragraph 6 were “disposed” of at the Site within the meaning of Section 101(29) of CERCLA, 42 U.S.C. § 9601(29).

CLAIM FOR RELIEF

8. The allegations of paragraphs 1 through 7 are realleged and incorporated herein by reference.

9. The Site is a “facility” within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

10. Defendant is a person who at the time of disposal of any hazardous substance owner or operated a facility at which hazardous substances were disposed of within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

11. There have been “releases” or threatened “releases” of hazardous substances into the environment at or from the Site within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

12. The actions taken by the United States in connection with the release, or threatened release, of hazardous substances from the Site constitute “response” actions within the meaning of Section 101(25) of CERCLA, 42 U.S.C. § 9601(25), for which the United States has incurred and will continue to incur costs.

13. The costs incurred by the United States in connection with releases or threatened releases of hazardous substances from the Site were not inconsistent with the National Contingency Plan, promulgated under Section 105(a) of CERCLA, 42 U.S.C. § 9605(a), and codified at 40 C.F.R. §§ 300 to -920.

14. As of December 2, 1998, the United States incurred unreimbursed response costs in connection with releases or threatened releases of hazardous substances from the section of the property managed by Winitsky Associates of \$146,195.11. The United States has incurred in excess of \$ 1,209,264.75 in response costs at the entire Site. The United States will continue to

incur costs in connection with releases or threatened releases of hazardous substances from facilities at the Site.

15. To date, Defendant has failed to reimburse the United States for any of the response costs incurred in connection with the Site.

16. Pursuant to Section 107(a), the Defendant is jointly and severally liable to the United States for response costs incurred and to be incurred by the United States in connection with releases or threatened releases of hazardous substances from the Site, including enforcement costs and prejudgment interests on such costs.

PRAYER FOR RELIEF

Wherefore, Plaintiff, United States of America, prays that this Court:

1. Enter judgment against Defendant in favor of Plaintiff for response costs which have been incurred by the United States at and in connection with the release or threatened release of hazardous substances from the Site, plus interest;

2. Enter a declaratory judgment pursuant to Section 113(g)(2) of CERCLA, 42 U.S.C. § 9613(g)(2), as to liability that will be binding in future actions to recover further costs; and

2. Grant such further relief as the Court may deem appropriate.

Respectfully submitted,

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